



Summary of the *Alsea Valley Alliance v. Evans* **U.S. District Court Decision**

In *Alsea Valley Alliance v. Evans* (99-6265-HO, D. OR, September 12, 2001), the U.S. District Court in Eugene, Oregon, set aside NMFS' 1998 ESA listing of Oregon Coast coho salmon, and ruled that NMFS' treatment of hatchery populations within an ESU was arbitrary and capricious (*Alsea* decision). Specifically, the Court found that NMFS' 1998 listing of Oregon Coast coho made improper distinctions beyond the level of an ESU by excluding hatchery populations from listing protection even though they were determined to be part of the same ESU as listed naturally-spawned populations. While this ruling affected only one ESU, the interpretive issue raised by the ruling has the potential to affect nearly all of the agency's West Coast salmon and steelhead listing determinations made to date. On December 14, 2001, the U.S. Court of Appeals for the Ninth Circuit (01-36071) granted intervenors-appellants an emergency motion to stay the district court judgement in the *Alsea* decision. Accordingly, the Oregon Coast coho ESU remains listed as a threatened species pending final disposition of the appeal.